



Jersey

COMMUNITY PROVISIONS (RESTRICTIVE MEASURES – MYANMAR/BURMA) (JERSEY) ORDER 2013

Arrangement

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Made

Coming into force

THE CHIEF MINISTER, in pursuance of Article 2 of the European Communities Legislation (Implementation) (Jersey) Law 1996, orders as follows –

1 Interpretation

In this Order –

“Council Regulation” means Council Regulation (EU) No. 401/2013 of 2 May 2013 concerning restrictive measures in respect of Myanmar/Burma and repealing Regulation (EC) No. 194/2008 (O.J. No. L 121/1, 3.5.2013).

2 Council Regulation given effect

The Council Regulation shall have effect as if it were an enactment, to any extent that it does not otherwise apply in Jersey, subject to the following modifications –

- (a) a reference in the Council Regulation to a Member State, Member States or the Union shall be construed as including Jersey;
- (b) a reference in the Council Regulation to competent authorities shall be construed as including the Minister;
- (c) a reference in the Council Regulation to the customs territory of the Union shall include, if or to the extent that it does not already do so, Jersey;
- (d) in Article 6 of the Council Regulation for the words beginning “The Commission and Member States” and ending “at their disposal” there shall be substituted the words “The Minister may inform the Commission and Member States of the measures taken under this Regulation and may supply them with any other relevant information at his or her disposal”;
- (e) Articles 7, 8 and 9 of the Council Regulation shall be omitted;

- (f) for Article 10 of the Council Regulation there shall be substituted the following Article –

“Article 10

This Regulation applies –

- (a) within Jersey, including its airspace;
- (b) on board any aircraft, or any vessel, under the jurisdiction of Jersey;
- (c) to any legal person, entity, or body, which is incorporated or constituted under the law of Jersey;
- (d) to any legal person, entity, or body, in respect of any business done in whole or in part in Jersey.”.

3 Information

The Schedule has effect in order to facilitate the obtaining, by or on behalf of the Minister, of information for any purpose in connection with the Council Regulation.

4 Offences

- (1) A person who –
- (a) contravenes Article 2 or 3 of the Council Regulation;
 - (b) intentionally furnishes false information or a false explanation to any person exercising powers under the Schedule; or
 - (c) with intent to evade the provisions of the Schedule, destroys, mutilates, defaces, secretes or removes any document,
- is guilty of an offence and liable to imprisonment for a term of 2 years and to a fine.
- (2) A person who, without reasonable excuse, contravenes paragraph 1(2) of the Schedule is guilty of an offence and liable to imprisonment for a term of 3 months and to a fine.
- (3) If an offence under this Order committed by a limited liability partnership, separate limited partnership or body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of –
- (a) a person who is a partner of the partnership, or director, manager, secretary or other similar officer of the body corporate; or
 - (b) a person purporting to act in any such capacity,
- the person is also guilty of the offence and liable in the same manner as the partnership or body corporate to the penalty provided for that offence.
- (4) If the affairs of a body corporate are managed by its members, paragraph (3) applies in relation to acts and defaults of a member in

connection with the member's functions of management as if the member were a director of the body corporate.

- (5) A prosecution for an offence under this Order must not be instituted without the consent of the Attorney General.

5 Application of Customs and Excise (Jersey) Law 1999 to certain offences

- (1) Article 48 of the 1999 Law applies to the arrest of a person for an offence to which this Article applies as it applies to the arrest of a person for an offence under the 1999 Law.
- (2) Articles 64 to 67 of the 1999 Law apply in relation to offences and penalties to which this Article applies and proceedings for such offences as they apply in relation to offences and penalties and proceedings for offences under the 1999 Law.
- (3) This Article applies to any offence concerning a contravention of Article 2 or 3 of the Council Regulation.
- (4) In this Article "1999 Law" means the Customs and Excise (Jersey) Law 1999.

6 Functions of Minister

- (1) The Minister, with a view to ensuring compliance with the Council Regulation, must perform the functions required to be performed by a competent authority of a Member State under the Council Regulation, as if the Minister were a competent authority.
- (2) The Minister may, to such extent and subject to such restrictions as he or she may think proper, delegate or authorize the delegation of any of his or her functions under this Order to any person, or class or description of person, approved by the Minister and references to the Minister in this Order shall be construed accordingly.

7 Revocation

The following Orders are revoked –

- (a) Community Provisions (Restrictive Measures – Burma/Myanmar) (Jersey) Order 2008;
- (b) Community Provisions (Restrictive Measures – Burma/Myanmar) (Amendment) (Jersey) Order 2009;
- (c) Community Provisions (Restrictive Measures – Burma/Myanmar) (Amendment No. 2) (Jersey) Order 2009;
- (d) Community Provisions (Restrictive Measures – Burma/Myanmar) (Amendment No. 3) (Jersey) Order 2010;
- (e) Community Provisions (Restrictive Measures – Burma/Myanmar) (Amendment No. 4) (Jersey) Order 2010;

- (f) Community Provisions (Restrictive Measures – Burma/Myanmar) (Amendment No. 5) (Jersey) Order 2011;
- (g) Community Provisions (Restrictive Measures – Burma/Myanmar) (Amendment No. 6) (Jersey) Order 2011;
- (h) Community Provisions (Restrictive Measures – Burma/Myanmar) (Amendment No. 7) (Jersey) Order 2012;
- (i) Community Provisions (Restrictive Measures – Burma/Myanmar) (Amendment No. 8) (Jersey) Order 2012.

8 Citation and commencement

This Order may be cited as the Community Provisions (Restrictive Measures – Myanmar/Burma) (Jersey) Order 2013 and shall come into force on the day after the day it is made.

Signed.....

Date.....

Chief Minister

SCHEDULE

(Article 3)

INFORMATION

1 Disclosure of information

- (1) The Minister may request a person in or resident in Jersey to –
 - (a) furnish to the Minister information; or
 - (b) produce to the Minister a document,
in the person's possession or control, that the Minister may require for the purpose of ensuring compliance with the Council Regulation.
- (2) A person must, within the time and manner specified in the request (or, if no time has been so specified, within a reasonable time), comply with a request made pursuant to sub-paragraph (1).
- (3) Nothing in this paragraph requires a person who has acted as legal adviser for a person to disclose a privileged communication made to the person in that capacity.
- (4) If a person is convicted by a court of an offence under this Order of failing to furnish information or to produce a document, the court may make an order requiring the person, within such period as may be specified in the order, to furnish the information or produce the document.
- (5) The power conferred by this paragraph to request a person to produce a document includes the power –
 - (a) to take copies of or extracts from a document so produced; and
 - (b) to request the person or, if the person is a body corporate, any other person who is a present or past officer of, or is employed by, the body corporate, to provide an explanation of any such document.

2 Restrictions on disclosure

- (1) Information furnished or a document produced (including any copy or extract made of a document produced) by a person in pursuance of a request made under this Schedule must not be disclosed except –
 - (a) subject to sub-paragraph (2), with the consent of the person by whom the information was furnished or the document was produced;
 - (b) to a person who would have been empowered under this Schedule to request that it be furnished or produced or a person holding or acting in an office under or in the service of the States;
 - (c) on the authority of the Minister, to the European Commission or to any of the competent authorities of the Member States identified in or through the websites listed in Annex II to the Council

- Regulation, for any purpose in connection with the Council Regulation;
- (d) on the authority of the Minister, to the Jersey Financial Services Commission established under the Financial Services Commission (Jersey) Law 1998, for the purpose of any of its functions, where the Minister believes that the exercise of such a function may assist in achieving compliance with the Council Regulation; or
 - (e) with a view to the institution of, or otherwise for the purposes of, proceedings for an offence under this Order.
- (2) A person who has obtained information or is in possession of a document only in the person's capacity as a servant or agent of another person may not give consent for the purposes of sub-paragraph (1)(a), but such consent may instead be given by a person who is entitled to that information or to possession of that document in the person's own right.

